

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**SCOTT CISCO,**

**Petitioner,**

**v.**

**WARDEN, CHILLICOTHE  
CORRECTIONAL INSTITUTION,**

**Respondent.**

**Case No. 2:14-cv-02025  
Judge Frost  
Magistrate Judge King**

**ORDER**

The claims asserted in this habeas corpus action under 28 U.S.C. § 2254 were dismissed as either procedurally defaulted or without merit. *Order* (ECF No. 12); *Judgment* (ECF No. 13). This matter is now before the Court on Petitioner’s motion for a certificate of appealability. *Motion for Certificate of Appealability* (ECF No. 14).

“In contrast to an ordinary civil litigant, a state prisoner who seeks a writ of habeas corpus in federal court holds no automatic right to appeal from an adverse decision by a district court.” *Jordan v. Fisher*, -- U.S. --, 135 S.Ct. 2647, 2650 (2015); 28 U.S.C. § 2253(c)(1)(requiring a habeas petitioner to obtain a certificate of appealability in order to appeal.) The petitioner must establish the substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). When a claim has been denied on the merits, a certificate of appealability may issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This standard is a codification of *Barefoot v. Estelle*, 463 U.S. 880 (1983). *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (recognizing codification of *Barefoot* in 28 U.S.C § 2253(c)(2)). To make a substantial showing of the denial of a constitutional right, a petitioner must show “that reasonable jurists could debate whether (or,

for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack*, 529 U.S. at 484 (quoting *Barefoot*, 463 U.S. at 893, n. 4).

When a claim has been denied on procedural grounds, a certificate of appealability may issue if the petitioner establishes that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484.

Upon review of the record, this Court is not persuaded that reasonable jurists could debate whether petitioner’s claims should have been resolved differently or would find it debatable whether this Court was correct in its procedural ruling. Therefore, Petitioner’s *Motion for a Certificate of Appealability* (ECF No. 14) is **DENIED**.

/s/ GREGORY L. FROST  
GREGORY L. FROST  
United States District Judge